

REMARKS

Applicants submit that the amendments herein are fully supported in the present specification as filed and add no new matter. Further, the amendments herein address issues that are first raised in the outstanding Office Action, and were not made earlier, because the first indication to Applicants that the present amendments would be needed was in that Office Action (e.g., new objection in paragraph 5 of the Office Action). Therefore, entry of the present amendment is proper and is respectfully requested.

Further, Applicants respectfully submit that this Reply automatically places the application in condition for allowance. Thus, the present Reply is believed to be in proper form for placing the application in condition for allowance. Further, the amended claims present no new issues requiring further search or consideration because claims of the same or similar scope (e.g., SEQ. ID. NO.:1) have previously been presented and subsequently examined.

In the alternative, if the Examiner continues with the rejections of the present application, it is respectfully requested that the present Reply be entered for purposes of an Appeal. The Reply reduces the issues on appeal by reducing the number of claims (claims are being canceled) and/or overcoming the objection or rejection(s) under 35 U.S.C. § 112. Thus, the issues on appeal would be reduced.

Status of the Claims

Applicants respectfully request the Examiner to reconsider the present application in view of the foregoing amendments to the claims.

In the present Reply, claims 13, 16, 22, 27-30 and 32-33 have been amended. Also, claims 1-12, 14, 15, 17-21 and 23 were previously canceled, and claims 24, 25, 26 and 35 have

been canceled herein without prejudice or disclaimer of the subject matter contained therein.

Thus, claims 13, 16, 22 and 27-34 are pending in the present application.

No new matter has been added by way of these amendments because each amendment is either a deletion of subject matter or merely editorial in nature. Claim 13 is further supported at page 19 of the present specification (regarding (c), wherein lines 18-19 of this part of the specification is pertaining to the entire length of the complementary sequence).

Based upon the above considerations, entry of the present amendment is respectfully requested.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw the objection and all rejections and allow the currently pending claims.

Substance of the Interview

In compliance with M.P.E.P.713.04, Applicants provide the following remarks.

Applicants proposed certain amendments to the claims, wherein those amendments are reflected herein. During the Interview, the Examiner indicated that the rejections limiting the claims to embodiments wherein the cells express both the human CD4 and the murine co-receptor exogenously would appear to overcome the art rejections. Thus, reconsideration is respectfully requested.

Also, the proposed claim amendments were discussed with reference to enablement and written description issues. More specifically, it appeared that the amendments shown herein may overcome the various 35 U.S.C. § 112, first paragraph. However, the Examiner indicated that the written description rejections would have to be considered in the context of satisfying proper structure-function correlations, as in compliance with the current USPTO written description

guidelines. Thus, reconsideration in view of the claim amendments presented herein is respectfully requested in the context of satisfying the enablement and written description requirements.

Claim Objections

Claims 13, 16 and 22 stand objected to due to an informality (see paragraph 5 at page 2 of the Office Action). Applicants respectfully traverse.

Since this informality (abbreviation of “env” not defined) has been addressed in the claim amendments as shown herein, Applicants respectfully request withdrawal of this objection. Applicants note that the amendments herein addressing this objection are for clarification purposes, and not for purposes of patentability.

Issues under 35 U.S.C. § 112, Second Paragraph

Claims 13, 16, 22, 24, 25 and 27-35 stand rejected under 35 U.S.C. § 112, second paragraph, for asserted reason of indefiniteness (see paragraphs 6-7 of the Office Action). Applicants respectfully traverse, and reconsideration and withdrawal of this rejection are respectfully requested.

Applicants respectfully refer the Examiner to the scope of the claims as presented herein, wherein the present tense is used to describe the disputed activities (e.g., “. . . said polypeptide binds . . .”). Thus, Applicants respectfully submit that one of skill in the art would understand that the claims recite clear and definite claim language and fully comply with 35 U.S.C. § 112, second paragraph. Therefore, reconsideration and withdrawal of this rejection are respectfully requested.

Issues under 35 U.S.C. § 112, First Paragraph (paragraphs 8-14 of the Office Action)

Claims 13, 16, 22, 24-27, 29, 31, 32, 34 and 35 stand rejected under 35 U.S.C. § 112, first paragraph, for asserted lack of written description (see paragraphs 8-9 of the Office Action).

Also, claims 13, 16, 22, 24-27, 29, 31, 32, 34 and 35 stand rejected under 35 U.S.C. § 112, first paragraph, for asserted lack of enablement (see paragraph 10 of the Office Action).

Further, claims 22, 26, 32, 34 and 35 stand rejected under 35 U.S.C. § 112, first paragraph, for asserted lack of enablement (see paragraph 12 of the Office Action).

In addition, claims 16, 25, 29 and 30 stand rejected under 35 U.S.C. § 112, first paragraph, for asserted lack of enablement (see paragraph 13 of the Office Action).

Finally, claim 35 stands rejected under 35 U.S.C. § 112, first paragraph, for asserted lack of enablement (see paragraph 14 of the Office Action).

Applicants respectfully traverse all rejections, and reconsideration and withdrawal of thereof are respectfully requested based on the following.

Enabled and properly described subject matter

Applicants respectfully refer the Examiner to the scope of the claims as presented herein, wherein sections (b) and (d) in claims 13, 16 and 22 have been deleted. Also, the disputed claims are directed to SEQ. ID. NO.:1 or SEQ. ID. NO.:2. Thus, it is respectfully submitted that the rejections at least as recited in paragraphs 9, 10 and 12 have been overcome. Further, some of the dependent claims have been canceled. Thus, some of the above rejections have been rendered moot (at least as stated in paragraphs 9, 10 and 12 of the Office Action).

With respect to paragraph 13 of the Office Action, claim 16 as presented herein is directed to “A recombinant cell expressing heterologous hCD4 and mCXCR-4, . . .” Regarding

this claim language, the Examiner indicates such recombinant cell is enabled. Thus, this rejection has been overcome as well.

With respect to paragraph 14 of the Office Action, this rejection is rendered moot with the cancellation of the disputed claim.

Accordingly, Applicants respectfully submit that one of skill in the art would understand that Applicants had possession of the claimed invention at the time of filing of the instant application, and that the present specification and the state of the art fully enable the scope of the claims as presented herein. Thus, reconsideration and withdrawal of these rejections are respectfully requested

Issues under 35 U.S.C. § 102(a)

Claims 13, 24, 25, 27-30 and 35 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Nagasawa et al. (*Proc. Natl. Acad. Sci. USA*, Vol. 93 (25), pp. 14725-29 (1996)) (see paragraphs 15-16 of the Office Action).

Also, claims 13, 16, 24, 25, 28, 30 and 35 stand rejected under 35 U.S.C. § 102(a) as being anticipated by either of Heesen et al. (*J. Immunol.*, Vol. 157(12), pp. 5455-60 (1996)) or Ashorn et al. (*Journal of Virology*, Vol. 64, pp. 2149-56 (1990)) (see paragraph 17 of the Office Action).

Applicants respectfully traverse all rejections, and reconsideration and withdrawal thereof are respectfully requested.

With respect to paragraph 16 of the Office Action, reconsideration and withdrawal of this rejection are respectfully requested in view of the claims as amended and presented herein. It is believed that this rejection has been overcome.

With respect to paragraph 17 of the Office Action, Applicants respectfully submit that this rejection is overcome in view of the Examiner's comments at page 10, last paragraph of the Office Action. Thus, reconsideration and withdrawal of this rejection are respectfully requested.

Conclusion


A full and complete response has been made to all issues as cited in the Office Action. Applicants have taken substantial steps in efforts to advance prosecution of the present application. Thus, Applicants respectfully request that a timely Notice of Allowance issue for the present case.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Eugene T. Perez (Reg. No. 48,501) at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 
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